

***AMENDMENT UNDER 37 C.F.R. § 1.116***  
***U. S. Application No. 09/878,325***

**REMARKS**

Claims 1-27 are pending in the application, although claims 7-9, 14, 15, 22, and 24-26 have been withdrawn from consideration.

As a preliminary matter, Applicant notes that claim 27, which was added by the Amendment filed October 20, 2003, is not mentioned in the Office Action. Thus, Applicant's representative called the Examiner to ask for a new Office Action, in which claim 27 is examined. The Examiner requested that Applicant respond to the current Office Action, noting in the response that claim 27 has not been examined yet. Since the Examiner erred by not examining claim 27, she should (and indicated that she would) re-open prosecution in this case.

Claims 1-6, 10-12, 19-21, 23, and (16-18)/(1, 5, 10) are allowed.

Claims 13 and (16-18)/13 are rejected under 35 U.S.C. § 102(b) as being anticipated by previously-cited Kitahara (JP 11277745).

Claim 13 is amended herein. The amendment to claim 13 is the Examiner's suggested amendment to place claim 13 and its dependent claims in form for allowance. Applicant submits that Kitahara fails to teach or suggest all of the limitations of claim 13. Specifically, the reference does not disclose the feature of an electric field applied portion of at least one of the piezoelectric layers, located away from the surface fixed to the fixing member, is shorter than other electric field applied portions of other piezoelectric layers that are located between the at least one piezoelectric layer and the first surface. By contrast, Kitahara discloses that the internal electrodes (3, 4) are longer, the farther away from the fixed substrate (7) they are. Thus, intuitively, an electric field applied portion of the piezoelectric layers between the internal

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electrodes (3, 4) would correspondingly be longer, the farther from the fixed substrate (7) they are. Therefore, claims 13, (16-18)/13 and 27 are not anticipated by Kitahara.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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**23373**

CUSTOMER NUMBER

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